



COLUMBIA RIVER INTER-TRIBAL FISH COMMISSION

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January 28, 2014

JoAnn Chase

Director

American Indian Environmental Office

USEPA Headquarters

1200 Pennsylvania Avenue, NW

Mail Code: 2690M

Washington, DC 20460

RE: December 12, 2013 Tribal "Consultation"

Dear Ms. Chase:

On December 12, 2013 we attended the PCB Use Reauthorization rulemaking consultation held in Washington DC. On behalf of the Columbia River Inter-Tribal Fish Commission, we came to express our four member tribes' (Warm Springs, Umatilla, Nez Perce, and Yakama) concerns regarding the impact of PCBs on our fishery resources. While we appreciate EPA's willingness to host a second consultation opportunity for tribes to provide input on this rulemaking, we have several concerns regarding the process that was used to fulfill EPA's obligation to consult with tribes during the rulemaking.

We expected this meeting to be an opportunity for meaningful communication as equals and partners with EPA leadership and staff, as described in EPA's *Policy on Consultation and Coordination with Indian Tribes* (May 2011). We looked forward to discussing how EPA's policies on allowable PCB uses pose challenges for states and tribes in meeting EPA-approved water quality standards that are protective of high fish consuming populations such as the tribes. What transpired, however, is better described as an informational session rather than an opportunity for meaningful and productive government-to-government consultation. The one-sided agenda did not even include time for airing tribal perspectives or discussing EPA policies on limiting PCB release into the environment. To say we were sorely disappointed would be an understatement.

Consultation is the formal process of negotiation, cooperation, and policy-level decision-making between a sovereign tribal government and the United States federal government. It is imperative that EPA's American Indian Environmental Office better prepare the Agency for a meaningful and productive government-to-government exchange.

Your office should be aware that the rulemaking in question, and any EPA policy or rule that impacts persistent organic pollutants in our environment is of great concern to the tribes. The attached letter, dated December 20, 2013 from EPA, to our Commission stands as an example of

an EPA decision to specifically not consult with tribes. In the letter, EPA suggests that the tribes should have followed the public comment process on the April 5, 2013 notice of interpretation of allowable PCB levels in commercial products. We ask that your office take a stronger role as a watchdog on the behalf of the tribes and request formal consultation on any policy decision made on persistent pollutants such as PCBs. Your office could also better support the consultation process by facilitating the meetings to allow for full tribal input and policy-level discussions. In this way, the opportunity for meaningful dialogue with the tribes on critical issues will not be missed by the EPA.

Thank you for considering our comments and suggestions. If you would like to discuss our suggestions in further detail please contact us through the Commission at 503- 238-0667.

Sincerely,



Joel Moffett
CRITFC Chair
Vice-Chairman, Nez Perce Tribal Executive Committee



Wilbur Slockish Jr.
CRITFC Commissioner
Columbia River Chief representing the Yakama Nation

Cc: Wendy Cleland-Hamnett, Director, EPA Office of Pollution Prevention and Toxics
Caren Robinson, OCSPP Tribal Consultation Advisor